

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES M. MALARIK,)	
)	
Petitioner,)	Civil Action No. 08-576
)	
v.)	Judge Joy Flowers Conti
)	Magistrate Judge Cathy Bissoon
ALLEGHENY COUNTY DISTRICT)	
ATTORNEYS OFFICE, et al.,)	
)	
Respondents.)	

MEMORANDUM ORDER

The Petition for Writ of Habeas Corpus filed by James M. Malarik (the "Petitioner") was received by the Clerk of Court on April 25, 2008, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges. The matter was later referred to United States Magistrate Judge Cathy Bissoon.

The magistrate judge's Report and Recommendation, filed on December 17, 2008, recommended that the Petition for Writ of Habeas Corpus filed by Petitioner Malarik be dismissed and that a certificate of appealability be denied. The Petitioner filed objections on December 29, 2008, in which he repeats the same arguments concerning the sufficiency of the evidence that he raised in his petition, and that were already appropriately addressed by the magistrate judge (Doc. 12).

After de novo review of the pleadings and documents in the

case, together with the Report and Recommendation, and the objections thereto, the following order is entered:

AND NOW, this 29th day of January, 2009,

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus filed by James M. Malarik is dismissed, and a certificate of appealability is denied.

The Report and Recommendation of Magistrate Judge Bissoon (Doc. 11) is adopted as the opinion of the court.

s/Joy Flowers Conti
Joy Flowers Conti
United States District Judge

cc:
JAMES M. MALARIK
#130218
Allegheny County Prison
950 Second Avenue
Pittsburgh, PA 15219